

**REMARKS/ARGUMENTS**

Claims 37-46 are currently pending in this application.

**Double Patenting Rejection**

Claims 37-46 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 31, 32, and 34-41 of U.S. Patent Appln. No. 10/767,326. A Terminal Disclaimer is submitted herewith to overcome the obviousness-type double patenting rejection. The withdrawal of the obviousness-type double patenting rejection is respectfully requested.

Claims 37-39 and 41, 46 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 14 of U.S. Patent No. 6,542,481. A Terminal Disclaimer has been submitted in U.S. Patent Appln. No. 10/767,326 to overcome an obviousness-type double patenting rejection over the same reference. The withdrawal of the obviousness-type double patenting rejection is respectfully requested.

**Claim Rejections - 35 USC §103(a)**

Claims 37-46, are rejected under 35 USC §103(a) as being unpatentable over U.S. Patent No. 5,673,259 to Roy F. Quick, Jr (hereinafter Quick).

Applicant respectfully disagrees with the Examiner. The pending claims recite a method for use in a code division multiple access (CDMA) user device" wherein the CDMA user device is assigned at least one wireless channel for receiving data based on an urgency factor." The Examiner has stated that this is not specifically taught by Quick and further the Examiner has failed to show how this is obvious in view of Quick.

Quick discloses a method wherein a communicating transceiver initializes a packet service request, requests a searcher reservation on the access channel, and sends the digital data packet over a random access channel using the specific long code corresponding to the communicating transceiver to obtain a coded digital data packet.

In particular, the section of Quick cited by examiner is directed at a searcher reservation scheme. See column 9, line 50 – column 10, line 4. According to Quick, a searcher element "is a sliding correlator receiver that continually scans a time domain window in search of a particular user's information signal. In a system with multiple demodulation elements, a searcher element may also scan a set of time

offsets around the nominal arrival of the signal in search of multipath signals that have developed. Typically, the controller directs the searcher to scan the received signal from the base station antenna and correlate the received signal with a known PN spreading sequence (or Long Code) associated with a particular mobile transmitter." See column 9, line 50 – column 10, line 4. Quick is directed to assigning transmitting paging channel information to a receiver based on the urgency of the mobile station to transmit data. However, as noted by the Examiner, Quick fails to teach or suggest assigned at least one wireless channel for receiving data based on an urgency factor, as is recited in the pending claims.

Quick and the cited references of record, either alone or in combination, fail to teach or suggest the pending claims. Accordingly, Applicants believe the pending claims are novel and patentable over the cited art.

Claims 38-46 are dependent upon claim 37, and the Applicants believe these claims are allowable over the cited references of record for the same reasons provided above.

Based on the arguments presented above, withdrawal of the §103(a) rejection of claims 37-46 is respectfully requested.

**Applicant:** Foore et al.  
**Application No.:** 10/767,016

**Conclusion**

If the Examiner believes that any additional minor formal matters need to be addressed in order to place this application in condition for allowance, or that a telephonic interview will help to materially advance the prosecution of this application, the Examiner is invited to contact the undersigned by telephone at the Examiner's convenience.

In view of the foregoing remarks, Applicants respectfully submit that the present application is in condition for allowance and a notice to that effect is respectfully requested.

Respectfully submitted,

Foore et al.

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Enclosures